

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL GROGAN,

Defendant.

Case No. 20-3018-01-CR-S-MDH

**MOTION OF THE UNITED STATES FOR PRETRIAL
DETENTION HEARING PURSUANT TO TITLE 18,
UNITED STATES CODE, SECTION 3142(f)**

The United States of America, by the United States Attorney for the Western District of Missouri, hereby moves the Court to order a pretrial detention hearing pursuant to 18 U.S.C. § 3142(f), for the purpose of presenting evidence to determine whether any condition or combination of conditions of release will reasonably assure the defendant's appearance as required by the Court and the safety of other persons and the community. As grounds for the motion, the United States submits that:

1. There is probable cause to believe that the defendant committed the offenses of possession with intent to distribute a mixture or substance containing a detectable amount of methamphetamine, in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C); possession of a firearm in furtherance of a drug trafficking crime, in violation of Title 18, United States Code, Section 924(c)(1)(A); and felon in possession of a firearm, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).
2. The defendant poses a risk to the safety of others in the community; and
3. The defendant poses a serious risk to flee.

SUPPORTING SUGGESTIONS

Subsection 3142(f), 18 U.S.C. provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community if the attorney for the Government moves for such a hearing and if the case involves an offense under the Controlled Substances Act (21 U.S.C. § 801, *et seq.*) for which imprisonment for 10 years or more is possible. In this case, the defendant is charged with possession with intent to distribute a mixture or substance containing a detectable amount of methamphetamine, a crime for which a sentence of imprisonment of 20 years is possible.

The Government further submits that in light of the Indictment filed in this case, there is probable cause to believe the defendant violated 21 U.S.C. § 841(a)(1) and (b)(1)(C). Accordingly, the Government suggests that upon a showing that there exists probable cause that the defendant committed the offense referred to in the Indictment, there is a legal presumption, subject to rebuttal by the defendant, that no condition or combination of conditions will reasonably assure his appearance or assure the safety of the community. *See United States v. Apker*, 964 F.2d 742, 743-44 (8th Cir. 1992); *United States v. Dorsey*, 852 F.2d 1068, 1069-70 (8th Cir. 1988).

Section 3142(e) and (f)(1) provides that a presumption that a defendant will not appear for subsequent court appearances arises if the offense is one enumerated under the Controlled Substance Act as referred to above. Under the Bail Reform Act there is also a presumption that the likelihood of flight increases with the severity of the charges, the strength of the Government's case, and the penalty which conviction could bring. *See Apker*, 964 F.2d at 744; *See also United*

States v. Soto Rivera, 581 F.Supp 561 (D.C. Puerto Rico 1984); *United States v. Menster*, 481 F.Supp. 1117 (D.C. Fla. 1979). As set forth above, the defendant's statutory sentencing range is currently a term of imprisonment of not more than 20 years' imprisonment.

To further support the Government's contention of the defendant's risk to the safety of the community and to flee, the Government offers that:

1. On or about October 2, 2019, Grogan was found in possession of approximately 35 grams of a mixture or substance containing a detectable amount of methamphetamine and a Jiminez Arms brand, J.A. Nine model, 9mm semi-automatic pistol, bearing serial number 273874.
2. Furthermore, Grogan was found in possession of methamphetamine and the aforementioned firearm as a result of the execution of a narcotics search warrant at a hotel room in Branson, Taney County, Western District of Missouri. Grogan was the sole occupant of the room.
3. In addition to methamphetamine and the firearm, items of paraphernalia indicative of distribution were found in the room, including: baggies; a digital scale; and a black booklet containing names, numbers, and amounts, recognized by law enforcement as a drug ledger.
4. Grogan has an extensive criminal history, with violent and controlled substances offenses, dating back to 2002.
5. In 2002, Grogan was found guilty of misdemeanor battery and assault in the Circuit Court of Jersey County, Illinois, and received a one year conditional discharge, which was successfully completed.
6. Grogan was found guilty of the felony of distribution of cannabis in the Circuit Court of Jersey County, Illinois, in 2005. Grogan was given a 90 day jail sentence and was placed on two years' probation.
7. Grogan pleaded guilty to possession of a forging instrument and possession of methamphetamine in the Circuit Court of Jersey County, Illinois, in 2017, and received a two year prison sentence in the Illinois Department of Corrections.
8. Finally, Grogan has multiple felony convictions out of Missouri state courts, including tampering with a motor vehicle in the first degree out of the Circuit Court of Taney County in 2016, forgery in the Circuit Court of Stone County in 2018, and yet another conviction for tampering with a motor vehicle in the first degree, also out of the Circuit Court of Taney County in 2018. When awarded probation on his first felony conviction out of Taney County, Grogan was ultimately unsuccessful due to his repeated law violations and had his sentence executed.

For the reasons set forth above, the United States requests that a detention hearing be held and that the defendant be denied bail.

Respectfully submitted,

TIMOTHY A. GARRISON
United States Attorney

By: /s/ Anthony M. Brown

ANTHONY M. BROWN
Special Assistant United States Attorney
Missouri Bar # 62504
500 Hammons Tower
901 St. Louis Street
Springfield, Missouri 65806
(417) 831-4406

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on February 25, 2020, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Anthony M. Brown

ANTHONY M. BROWN
Special Assistant United States Attorney